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Attorneys for Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

WILLIAM G. OSBORNE,)	
)	Case No. 3:03-cv-00118-RRB
Plaintiff,)	
_____)	
v.)	MOTION FOR
)	PRESERVING EVIDENCE
DISTRICT ATTORNEY'S OFFICE FOR)	
THE THIRD JUDICIAL DISTRICT,)	
ANCHORAGE, ALASKA; SUSAN A.)	
PARKES, DISTRICT ATTORNEY, in her)	
official capacity; ANCHORAGE POLICE)	
DEPT., ANCHORAGE, ALASKA; WALT)	
MONEGAN, ANCHORAGE POLICE DEPT.)	
CHIEF OF POLICE,)	
)	
Defendants.)	
_____)	

COMES NOW the Defendant, William Osborne, by and through his attorney, Randall S. Cavanaugh of KALAMARIDES & LAMBERT (in conjunction with Robert Bundy and the Innocence Project), and hereby moves this court for an order preventing the State of Alaska from unilaterally testing the evidence. The court has issued an order

granting summary judgment on behalf of Osborne for further testing. Counsel for Osborne does not want the evidence to be tested by the State of Alaska until the parties have reached an agreement for protocols for handling the evidence. The order would prevent any disagreements concerning chain-of-custody.

Plaintiff is paying for the testing of the biological evidence at the lab we are selecting. The State of Alaska has indicated they are appealing the decision by this court and are going to seek a stay on any testing of the biological evidence. It would be inappropriate for the losing party to undermine the integrity of the evidence by any kind of examination while the appeal is pending.

Counsel has faxed a letter to the State of Alaska's representative, Ms. Simel, about setting up a conference call to discuss the matters, but have not received a response back. Counsel notes that Mr. Bundy is out of the office at this time.

DATED this 11th day of August, 2006, at Anchorage, Alaska.

KALAMARIDES & LAMBERT
Attorneys for Plaintiff

By: /s/ Randall S. Cavanaugh
Randall S. Cavanaugh, ABA #8812215
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CERTIFICATE OF SERVICE

The undersigned hereby certifies, pursuant to App. R. 513.5, that the font used in the aforementioned documents was Times New Roman 13 point. I further certify that a true and correct copy of the foregoing was served via **electronic mail or first class mail** this 11th day of August, 2006, on:

Peter Neufeld and Colin Starger **(first class mail)**
Innocence Project
Benjamin N. Cardozo School of Law
55 Fifth Avenue, 11th Floor
New York, NY 10003

William Osborne **(first class mail)**
Spring Creek Correctional Center
P.O. Box 2109
Seward, AK 99664

Nancy Simel, Asst. Atty General **(electronic mail)**
(Attorney for Susan Parkes and Dist. Atty's Office)
Special Prosecutions and Appeals
310 K Street, Suite 308
Anchorage, AK 99501

Mary Pinkel, Asst. Municipal Attorney **(first class mail)**
(Attorney for Anchorage Police Department
and Chief Monegan)
Municipality of Anchorage Dept. of Law
P.O. Box 1996650
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Robert Bundy **(electronic mail)**
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/s/ Randall S. Cavanaugh
Kalamarides & Lambert